

REMARKS

Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and the following remarks. Claims 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181-182 were previously pending in the application. By this Amendment, Applicants have canceled claims 164 and 178 without prejudice or disclaimer. Applicants request entry of the foregoing amendments and reconsideration in light of the amendments and the remarks following.

Priority

The Examiner has requested the Applicant to discuss aspects of several priority applications and identify where various features of the present invention are first disclosed. Applicants submit that the Examiner has not cited or relied on any intervening art that would necessitate this type of discussion. Applicants will address any issues that may arise regarding cited art that has an intervening filing date, as it arises.

Claim Objections

Applicants have canceled claims 164 and 178 without prejudice or disclaimer. Accordingly, Applicants submit the claim objections have been rendered moot.

Rejections Under 35 U.S.C. §112

Claims 98, 113, 127, 139, 152, 164, 168 and 178 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. More specifically, the Examiner asserts, "Applicant does not explain how a payment is guaranteed." (See, Office Action, page 4, ¶ 5). Applicants respectfully submit that the meaning of "guaranteed" is clear. This is evidenced by the fact that there have been three previous office actions issued by the Patent Office, none of which have indicated that the term was unclear.

Rejections Under 35 U.S.C. §103

Claims 98-111, 113-125, 127-137, 139-150, 152-165, 167-179 and 181-182 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Charles Boisseau, 'Netting cheap fares/Some taking cyberspace route.' (hereafter "Boisseau"), in view of Chung US Patent 6,644,721 (hereafter "Chung").

Applicants submit that a prima facie case of obviousness has not been established. The Supreme Court recently affirmed the application of the Graham factors in determining whether or not a prima facie case of obviousness has been established (See, KSR International Co. v. Teleflex Inc., et al., 550 U.S. ____ (2007). The first Graham factor involves a determination of the scope and content of the prior art. (See, Id.). Applicants submit that the scope and content of the prior art has been erroneously construed and improperly applied to the pending claims.

Independent claim 98 recites inter alia,

A system comprising...a processor...operative...to:...compare said conditional purchase offer with seller inventory and pricing information stored on a central reservation system to determine if said conditional purchase offer is acceptable.

Applicants submit that the Boisseau does not discuss at least a conditional purchase offer or a comparison of a conditional purchase offer with information stored on a central reservation system to determine if the conditional purchase offer is acceptable as claimed.

The Examiner alleges that Boisseau discloses:

that processors obtain stored flight and seat inventory information and display the information to customers using server(s). The processors also: receive conditional purchase offer(s) including an offer price from a customer utilizing a web page for purchasing travel services. (citing Boisseau's Abstract, the airline received 14,760 bids) (See, Office Action, page 5).

comparing the condition purchase offer with seller inventory...on a stored central reservation system (See, Office Action, page 6).

There is nothing in Boisseau to suggest that a comparison of a conditional purchase offer (CPO) with seller's inventory and pricing information. In direct contrast to a CPO from a buyer, Boisseau discusses a series of seller-defined fares that are distributed as email or as part of a silent auction (See, Boisseau, Page 2, ¶ 3). Boisseau discusses USAir's E-Savers discounted fare offers are based on a seller's identifying a particular fare discount and widely distributed via email to subscribers on the internet (See, Boisseau, Page 2, ¶ 10). There is no receipt or comparison of a CPO.

Also, Boisseau discusses Cathay Pacific Airways auctioning off empty seats and American Airlines staging "silent auctions." (See, Boisseau, Page 2, ¶ 12-14). Applicants submit that an auction for a seat or a fare is not analogous to the claimed system. A bid in an auction is simply not a CPO. Moreover, Boisseau does not discuss a comparison of any CPO (or for that matter, even a bid) with seller inventory or pricing information stored on a central reservation system. As in USAir's E-Saver example, the seller picks a particular specific seat or fare which then may be offered for sale to the highest bidder. Accordingly, Boisseau's auctions do not disclose, teach or suggest any comparison of a CPO with a seller's inventory to determine whether the CPO is acceptable, as claimed.

Applicants submit that Chung's system for facilitating multiple currency travel reservation information management fails to remedy the deficiencies identified above in Boisseau. Accordingly, Applicants submit that a prima facie case of obviousness has not been established and that the pending claims are not rendered obvious by Boisseau or Chung taken alone or in combination.

Applicants maintain the position that the Examiner has not established at any time a prima facie case of obviousness. This is evidenced by the Examiner's reliance on two new cited references (Boisseau and Chung) and withdrawal of the rejections based on the previously cited references. As such, Applicants maintain the position that because a prima facie case of obviousness has not been established during prosecution, Applicants have not substantively addressed the various instances of alleged Official Notice, particularly as to various dependent claims. Applicants maintain the position that there have been no admissions regarding the alleged admitted prior art. Applicants also submit the references cited in the pending Office Action fail to establish a prima facie case of obviousness. As such, Applicants traverse the Examiner's various instances of alleged official notice; and request documentary evidence in support of the Examiner's position, in accordance with MPEP 2144.04(C).

Conclusion

Applicants submit that independent claims 98, 113, 127, 139, 152, 168 and 182, are patentably distinct from the cited references, for at least the reasons discussed above. Similarly, Applicants submit that independent claims 99-111, 114-125, 128-137, 140-150, 153-165, 167, 169-179 and 181-182 (which are directly or indirectly dependent on independent claims 98, 113, 127, 139, 152, 168 and 182, respectively) are also patentably distinct from the cited references for at least similar reasons. Accordingly, Applicants respectfully submit that each of the pending claims are in condition for allowance. Examiner is invited to contact Applicants' undersigned representative to discuss any issues which may advance the prosecution of the instant application.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17200-020CT3. In the event that an additional extension of time is required, or which may be required in

addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17200-020CT3.

Respectfully Submitted,
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